

AMENDED IN ASSEMBLY MAY 28, 2010

AMENDED IN ASSEMBLY MARCH 25, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 1834**

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**Introduced by Assembly Member Solorio**

February 12, 2010

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An act to *amend Section 7027.5 of the Business and Professions Code, and to add Part 2.4 (commencing with Section 10570) to Division 6 of the Water Code*, relating to water.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1834, as amended, Solorio. Rainwater Capture Act of 2010.

~~Under~~

(1) *Under* existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements for the discharge of stormwater in accordance with the national pollutant discharge elimination system (NPDES) permit program and the Porter-Cologne Water Quality Control Act. Existing law authorizes a regional water management group, as defined, to adopt an integrated regional water management plan that addresses specified matters. Existing law authorizes a city, county, or special district to develop, jointly or individually, stormwater resource plans that meet certain standards.

This bill would enact the Rainwater Capture Act of 2010, which would authorize a landowner to install, maintain, and operate, on the landowner's property, a rainwater capture system meeting specified requirements. The bill would require the State Water Resources Control Board to initiate a stakeholder process to develop—~~guidelines~~

*recommendations for policies for state and local agencies to address issues arising out of encourage and facilitate the installation and use of rainwater capture systems, as defined, for specified nonpotable uses, and capture of stormwater by public agencies. The bill would require the board to submit recommendations as to the appropriate guidelines to the Legislature and the Governor publish those recommendations on its Internet Web site by December 31, 2011. The bill would require the board, if the stakeholder process results in recommendations for building standards, to submit those recommendations to the California Building Standards Commission and the Department of Housing and Community Development by December 31, 2011, and would require the commission and the department to consider the recommendations for building standards for adoption in a specified update of the California Building Standards Code by July 1, 2013.*

*The bill would authorize the board to adopt policies or guidelines related to rainwater and stormwater capture if the board makes a specified finding.*

*(2) Existing law, the Contractors' State License Law, creates the Contractors' State License Board within the Department of Consumer Affairs and provides for the licensing and regulation of contractors. Existing law authorizes a landscape contractor working within the classification of his or her license to enter into a prime contract for the construction of a swimming pool, spa, or hot tub, an outdoor cooking center, or an outdoor fireplace, if certain conditions are met. Under existing law, a violation of these provisions and related provisions of existing law is grounds for disciplinary action.*

*This bill would additionally authorize a landscape contractor working within the classification of his or her license to enter into a prime contract for the construction of a rainwater capture system, as defined, if the system is part of a landscape irrigation system that the contractor is supervising. The bill would authorize a landscape contractor holding a specified classification to design and install all exterior components of a rainwater capture system that are not a part of, or attached to, a structure.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 7027.5 of the Business and Professions*  
2     *Code is amended to read:*

3     7027.5. (a) A landscape contractor working within the  
4     classification for which the license is issued may design systems  
5     or facilities for work to be performed and supervised by that  
6     contractor.

7     (b) Notwithstanding any other provision of this chapter, a  
8     landscape contractor working within the classification for which  
9     the license is issued may enter into a prime contract for the  
10    construction of any of the following:

11    (1) A swimming pool, spa, or hot tub, provided that the  
12    improvements are included within the landscape project that the  
13    landscape contractor is supervising and the construction of any  
14    swimming pool, spa, or hot tub is subcontracted to a single licensed  
15    contractor holding a Swimming Pool (C-53) classification, as set  
16    forth in Section 832.53 of Title 16 of the California Code of  
17    Regulations, or performed by the landscape contractor if the  
18    landscape contractor also holds a Swimming Pool (C-53)  
19    classification. The contractor constructing the swimming pool,  
20    spa, or hot tub may subcontract with other appropriately licensed  
21    contractors for the completion of individual components of the  
22    construction.

23    (2) An outdoor cooking center, provided that the improvements  
24    are included within a residential landscape project that the  
25    contractor is supervising. For purposes of this subdivision, “outdoor  
26    cooking center” means an unenclosed area within a landscape that  
27    is used for the cooking or preparation of food or beverages.

28    (3) An outdoor fireplace, provided that it is included within a  
29    residential landscape project that the contractor is supervising and  
30    is not attached to a dwelling.

31    (4) *A rainwater capture system, as defined in Section 10572 of*  
32    *the Water Code, provided that the system is included within a*  
33    *landscape irrigation system that the contractor is supervising.*

34    (c) (1) Work performed in connection with a ~~residential~~  
35    landscape project specified in paragraph (2) ~~or~~, (3), or (4) of  
36    subdivision (b) that is outside of the field and scope of activities  
37    authorized to be performed under the Landscape Contractor  
38    classification (C-27), as set forth in Section 832.27 of Title 16 of

1 the California Code of Regulations, may only be performed by a  
2 landscape contractor if the landscape contractor also either holds  
3 an appropriate specialty license classification to perform the work  
4 or is licensed as a general building contractor. If the landscape  
5 contractor neither holds an appropriate specialty license  
6 classification to perform the work nor is licensed as a general  
7 building contractor, the work shall be performed by a specialty  
8 contractor holding the appropriate license classification or by a  
9 general building contractor performing work in accordance with  
10 the requirements of subdivision (b) of Section 7057.

11 *(2) Notwithstanding paragraph (1), a landscape contractor*  
12 *performing work under the Landscape Contractor classification*  
13 *(C-27), as set forth in Section 832.27 of Title 16 of the California*  
14 *Code of Regulations, may design and install all exterior*  
15 *components of a rainwater capture system, as defined in Section*  
16 *10572 of the Water Code, that are not a part of, or attached to, a*  
17 *structure.*

18 (d) A violation of this section shall be cause for disciplinary  
19 action.

20 **SECTION 1.**

21 *SEC. 2.* Part 2.4 (commencing with Section 10570) is added  
22 to Division 6 of the Water Code, to read:

23  
24 **PART 2.4. RAINWATER CAPTURE ACT OF 2010**  
25

26 10570. This part shall be known, and may be cited, as the  
27 Rainwater Capture Act of 2010.

28 10571. The Legislature finds and declares all of the following:

29 (a) As California has grown and developed, the amount of  
30 stormwater flowing off *of buildings, parking lots, roads, and other*  
31 impervious surfaces into surface water streams and flood channels  
32 has increased, thereby reducing water allowed to infiltrate into  
33 groundwater aquifers and increasing ~~water flowing to the ocean.~~  
34 *water and pollution flowing to the ocean. At the same time,*  
35 *recurring droughts and water shortages in California have made*  
36 *water conservation efforts a priority.*

37 (b) Historical patterns of precipitation are predicted to ~~change~~  
38 *and change, with two major implications for water supply. First,*  
39 an increasing amount of California's water is predicted to fall not  
40 as snow in the mountains, but as rain in other areas of the state.

1 This will likely have a profound and transforming effect on  
2 California's hydrologic cycle and much of that water will no longer  
3 be captured by California's reservoirs, many of which are located  
4 to capture ~~snow melt~~. *snowmelt. Second, snowmelt, and runoff*  
5 *resulting from snowmelt, are predicted to occur progressively*  
6 *earlier in the year, and reservoirs operated for flood control*  
7 *purposes must release water early in the season to protect against*  
8 *later storms, thereby reducing the amount of early season snowmelt*  
9 *that can be stored.*

10 (c) Rainwater, captured and properly managed, can contribute  
11 significantly to local water supplies ~~through onsite storage and~~  
12 ~~use, or~~ by percolation into the ground to recharge groundwater  
13 aquifers, thereby increasing available supplies of drinking water.  
14 *In addition, the use of rainwater through onsite storage and use*  
15 *for landscape irrigation significantly reduces the demand for*  
16 *potable water, contributing to the statutory objective of a*  
17 *20-percent reduction in urban per capita water use in California*  
18 *by December 31, 2020.*

19 (d) Expanding reliance on rainwater capture for water supply  
20 needs will require efforts at all levels, from individual landowners  
21 to *state and* local agencies and watershed managers.

22 10572. Unless the context otherwise requires, the following  
23 definitions govern the construction of this part:

24 (a) ~~"Rainwater" means rain or snow that has not entered an~~  
25 ~~off-site drainage system, stormwater facility, or other stream~~  
26 ~~channel, and has not previously been put to beneficial use.~~

27 (b) ~~"Rainwater capture system" means a facility designed to~~  
28 ~~capture and retain rainwater for either subsequent outdoor~~  
29 ~~landscaping uses or infiltration into a groundwater aquifer on or~~  
30 ~~under the property where the rainwater was captured.~~

31 (c) ~~"Stormwater" means temporary water flows generated by~~  
32 ~~immediately preceding storms that flow in natural or artificial~~  
33 ~~channels designed to divert excess water away from urban areas.~~

34 (a) *"Rainwater" means rain or snowmelt that has not entered*  
35 *an off-site storm drain system or channel, a flood control channel,*  
36 *or any other stream channel, and has not previously been put to*  
37 *beneficial use.*

38 (b) *"Rainwater capture system" means a facility designed to*  
39 *capture and retain rainwater flowing off of a building, parking*  
40 *lot, road, or any other manmade, impervious surface, for either*

1 subsequent outdoor, nonpotable uses or infiltration into a  
2 groundwater aquifer.

3 (c) “Stormwater” means temporary surface water and snowmelt  
4 runoff generated by immediately preceding storms. This definition  
5 shall be interpreted consistent with the definition of “stormwater”  
6 in Section 122.26 of Title 40 of the Code of Federal Regulations,  
7 as that section may be amended.

8 10573. (a) A landowner may install, maintain, and operate,  
9 on the landowner’s property, a rainwater capture system ~~connected~~  
10 ~~to artificial, impervious surfaces that prevent natural groundwater~~  
11 ~~to supply water for outdoor, nonpotable uses on the property where~~  
12 ~~the rainwater was captured or for groundwater recharge.~~ If a local  
13 agency has a program to promote rainwater or stormwater capture  
14 and use, the landowner shall comply with applicable requirements  
15 of the program, including, but not limited to, a stormwater resource  
16 plan adopted pursuant to Part 2.3 (commencing with Section  
17 10560).

18 (b) Financing pursuant to Chapter 29 (commencing with Section  
19 5898.10) of Part 3 of Division 7 of the Streets and Highways Code  
20 shall be available to landowners who install a rainwater capture  
21 system, if a local agency authorizes and arranges that financing  
22 consistent with the requirements of that chapter.

23 (c) *This section shall not be construed to impose a duty on, or*  
24 *impair the authority of, a local agency to establish or implement*  
25 *a program for rainwater capture in its jurisdiction.*

26 ~~10574. A state or local agency shall not impose requirements~~  
27 ~~on rainwater capture systems, or rainwater capture use, for~~  
28 ~~landscaping purposes that include water quality requirements that~~  
29 ~~are the same as those imposed for use as potable water.~~

30 10574. (a) *It is the intent of the Legislature that the use of*  
31 *rainwater for nonpotable uses should not be constrained by water*  
32 *quality requirements for potable water use.*

33 (b) *Notwithstanding subdivision (a), this part does not affect*  
34 *any requirements for the protection of groundwater quality from*  
35 *contamination resulting from stormwater drainage.*

36 10575. (a) It is the intent of the Legislature to encourage  
37 collaboration among ~~regional and local agencies with~~  
38 ~~responsibilities for state, regional, and local agencies with~~  
39 ~~responsibilities that include, but are not limited to, building~~  
40 ~~standards, flood protection, water supply, or land use to promote~~

1 greater capture of rainwater and stormwater for water supply  
2 purposes.

3 *(b) It is the intent of the Legislature that the California Building*  
4 *Standards Code, including the California Green Building*  
5 *Standards Code (Part 11 (commencing with Section 101) of Title*  
6 *24 of the California Code of Regulations), encourage and provide*  
7 *building standards guidelines for the installation and use of*  
8 *rainwater capture systems for outdoor, nonpotable uses and*  
9 *groundwater recharge.*

10 ~~10576. (a) The board shall initiate a stakeholder process to~~  
11 ~~develop guidelines for local agencies to address issues arising out~~  
12 ~~of rainwater capture for nonpotable uses, including, but not limited~~  
13 ~~to, all of the following:~~

14 ~~(1) Vector control.~~

15 ~~(2) Water quality.~~

16 ~~(3) Safe installation, maintenance, and operation of rainwater~~  
17 ~~capture systems.~~

18 ~~(4) Water rights.~~

19 ~~(5) Vegetation and habitat management in flood facilities and~~  
20 ~~rainwater capture systems.~~

21 ~~(b) The board shall invite all stakeholders and agencies~~  
22 ~~concerned about rainwater and stormwater capture to participate~~  
23 ~~in the process described in subdivision (a). The board shall invite~~  
24 ~~local, regional, state, and federal agencies, including, but not~~  
25 ~~limited to, the Department of Water Resources and the United~~  
26 ~~States Army Corps of Engineers. The board may appoint a local~~  
27 ~~agency or another state agency to lead the stakeholder process if~~  
28 ~~that agency can provide funding for the process, but the board shall~~  
29 ~~retain responsibility for the outcome of the process.~~

30 ~~(c) The board shall submit recommendations, arising out of the~~  
31 ~~stakeholder process described in subdivision (a), as to the~~  
32 ~~appropriate guidelines for rainwater capture for nonpotable uses,~~  
33 ~~to the Legislature and the Governor by December 31, 2011. These~~  
34 ~~recommendations may include recommendations for additional~~  
35 ~~legislation, including amendments to this part, or other state agency~~  
36 ~~actions to implement the guidelines.~~

37 ~~(d) (1) The requirement for submitting a report imposed under~~  
38 ~~subdivision (c) is inoperative on January 1, 2015, pursuant to~~  
39 ~~Section 10231.5 of the Government Code.~~

~~(2) A report to be submitted pursuant to subdivision (c) shall be submitted in compliance with Section 9795 of the Government Code.~~

10576. (a) *The board shall initiate a stakeholder process to develop recommendations for policies of state and local agencies that would encourage and facilitate the installation and use of rainwater capture systems for outdoor, nonpotable uses and groundwater recharge, and capture of stormwater by public agencies.*

(b) *The board shall invite all stakeholders, and federal, state, and local agencies concerned about rainwater and stormwater capture to participate in the process described in subdivision (a). The board may appoint a local agency or another state agency to lead the stakeholder process if that agency can provide funding for the process, but the board shall retain responsibility for the final recommendations developed through the process.*

(c) *In developing the recommendations, the stakeholder process shall address issues arising out of rainwater capture for nonpotable uses, including, but not limited to, all of the following:*

(1) *Vector control.*

(2) *Water supply augmentation.*

(3) *Water quality.*

(4) *Safe installation, maintenance, and operation of rainwater capture systems.*

(5) *Water rights.*

(6) *Vegetation and habitat management in flood control facilities and rainwater or stormwater capture systems.*

(7) *Consistency with building standards requirements, including the building drainage requirements of Chapter 11 of the California Plumbing Code (Part 5 (commencing with Section 101.0) of Title 24 of the California Code of Regulations).*

(8) *Potential for indoor, nonpotable use of captured rainwater.*

(9) *Financial and tax incentives to encourage greater capture of rainwater and stormwater.*

(10) *Necessary monitoring and reporting of rainwater and stormwater capture programs.*

(11) *Outcomes of existing programs that promote rainwater or stormwater capture.*

(d) *The board shall publish recommendations developed pursuant to this section on its Internet Web site by December 31,*



1 2011. These recommendations may include recommendations for  
2 additional legislation, including amendments to this part,  
3 recommendations for building standards for the installation and  
4 use of rainwater capture systems, or other state agency actions to  
5 implement the recommendations.

6 (e) The stakeholder process, including the development of  
7 recommendations, pursuant to this section, is not subject to the  
8 rulemaking provisions of the Administrative Procedure Act  
9 (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
10 Division 3 of Title 2 of the Government Code).

11 10577. (a) (1) If the stakeholder process pursuant to Section  
12 10576 results in recommendations for building standards for the  
13 installation and use of rainwater capture systems, the board, on  
14 or before December 31, 2011, shall submit those recommendations  
15 to the California Building Standards Commission and the  
16 Department of Housing and Community Development for approval  
17 and adoption in the California Green Building Standards Code  
18 (Part 11 (commencing with Section 101) of Title 24 of the  
19 California Code of Regulations) or the California Plumbing Code  
20 (Part 5 (commencing with Section 101.0) of Title 24 of the  
21 California Code of Regulations).

22 (2) In developing recommendations for building standards for  
23 the installation and use of rainwater capture systems pursuant to  
24 the stakeholder process, the process shall include consideration,  
25 and incorporation, if appropriate, of the rainwater catchment  
26 system provisions contained in the 2010 Green Plumbing and  
27 Mechanical Code Supplement published by the International  
28 Association of Plumbing and Mechanical Officials and any other  
29 proposals that the stakeholders deem appropriate.

30 (b) On or before July 1, 2013, the California Building Standards  
31 Commission and the Department of Housing and Community  
32 Development shall consider any building standards  
33 recommendations submitted in accordance with subdivision (a)  
34 for adoption in an annual code update to the California Green  
35 Building Standards Code (Part 11 (commencing with Section 101)  
36 of Title 24 of the California Code of Regulations) or the California  
37 Plumbing Code (Part 5 (commencing with Section 101.0) of Title  
38 24 of the California Code of Regulations).

39 10578. In addition to policies developed pursuant to Section  
40 10576, the board may adopt its own policies or guidelines related

- 1 *to rainwater and stormwater capture, if the board finds that those*
- 2 *policies or guidelines would encourage and facilitate greater*
- 3 *capture of rainwater and stormwater.*

O